

File No. 240937

Committee Item No. 4

Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Brent Jalipa Date October 3, 2024

Completed by: Brent Jalipa Date October 10, 2024

1 [Predevelopment Agreement Amendment - Retroactive - Potrero Neighborhood Collective
2 LLC - 2500 Mariposa - Potential Termination Payment Not to Exceed \$15,546,566]

3 **Resolution retroactively approving a Second Amendment to the Predevelopment**
4 **Agreement between Potrero Neighborhood Collective LLC and the City and County of**
5 **San Francisco, acting by and through the San Francisco Municipal Transportation**
6 **Agency, dated for reference purposes as of October 1, 2024, and retroactively effective**
7 **as of October 17, 2024, to increase the potential termination payment by \$5,556,566 for**
8 **a total potential termination payment that will not exceed \$15,546,566; and making**
9 **environmental findings under the California Environmental Quality Act.**

10
11 WHEREAS, The San Francisco Municipal Transportation Agency (“SFMTA”) has
12 determined it is critical to replace its outdated Potrero Yard facility at 2500 Mariposa Street in
13 the Mission District (“Project Site”) to provide the best quality transit service for all of San
14 Francisco, one of the most important tools we have to fight climate change; and

15 WHEREAS, The SFMTA’s Potrero Yard Modernization Project (“Project”) includes the
16 simultaneous joint development and construction of a new facility with a modern four-story
17 bus storage and maintenance component (“Bus Yard Component”) and, if feasible, a multi-
18 family housing and commercial component (“Housing Component”) at the Project Site, with a
19 potential paratransit facility if it is not feasible to construct housing above the Bus Yard
20 Component; and

21 WHEREAS, The Project will expand capacity for the electric trolley bus fleet at the
22 Project Site by over 50 percent, and allow Muni to continue as a national leader in delivering
23 sustainable transit service by helping to facilitate its transition to a 100 percent zero-emission
24 fleet; and

1 WHEREAS, The new facility will dramatically improve efficiency of Muni operations and
2 maintenance by providing adequate space and operational flow for bus maintenance, parking,
3 and circulation of the electric trolley bus fleet; and

4 WHEREAS, By improving the work environment for SFMTA frontline operations and
5 maintenance staff, who currently work in a 109-year-old facility that is significantly outdated
6 and undersized, buses can be repaired faster for more reliable Muni service; and

7 WHEREAS, The Project will be the nation’s first known joint development of a bus
8 storage and maintenance transit facility with housing, and if feasible, will address a critical
9 housing need with one of San Francisco’s largest affordable housing developments with up to
10 465 affordable rental units for low and moderate income households; and

11 WHEREAS, On April 7, 2020, the SFMTA Board of Directors approved Resolution
12 200407-035, a copy of which is on file with the Clerk of the Board of Supervisors in File No.
13 240136, authorizing the SFMTA to use a joint development procurement method to deliver the
14 Project and seek approval from the Board of Supervisors for that method; and

15 WHEREAS, On March 16, 2021, the Board of Supervisors adopted Ordinance 38-21, a
16 copy of which is on file with the Clerk of the Board of Supervisors in File No. 240136, to
17 approve a joint development delivery method and a best-value selection of the developer for
18 the Project and exempted various Project agreements from certain San Francisco
19 Administrative Code requirements that are inconsistent with the joint development delivery
20 method, with the ordinance being signed by the Mayor and effective on April 25, 2021; and

21 WHEREAS, After a competitive process for a predevelopment agreement for the
22 Project (“PDA”) that included a request for qualifications and a request for proposals, the
23 SFMTA Board of Directors adopted Resolution 221101-105 on November 1, 2022, a copy of
24 which is on file with the Clerk of the Board of Supervisors in File No. 240136, to authorize the
25 SFMTA Director of Transportation to execute the PDA with Potrero Neighborhood Collective,

1 LLC (“PNC”), which has Plenary Americas US Holdings Inc. (“Plenary”) as its sole member,
2 for a term that will not exceed 568 days; and

3 WHEREAS, The PDA was fully executed as of November 2, 2022, a copy of which is
4 on file with the Clerk of the Board of Supervisors in File No. 240136, and was amended by a
5 First Amendment to Predevelopment Agreement (“First Amendment”) that was fully executed
6 as of May 29, 2024, a copy of which is on file with the Clerk of the Board of Supervisors in File
7 No. 240937; and

8 WHEREAS, Except for limited SFMTA predevelopment obligations described in the
9 PDA as amended by the First Amendment (“Modified PDA”), the Modified PDA requires PNC
10 to perform the majority of the predevelopment work needed for the Project at its sole cost
11 during the term of the Modified PDA, including but not limited to developing schematic
12 designs, maintenance plans, and financing plans, securing Project financing, obtaining Project
13 entitlements, and procuring design-build and maintenance contractors; and

14 WHEREAS, The Modified PDA requires that the SFMTA and PNC negotiate the terms
15 of agreements for the design, construction and certain maintenance of the Bus Yard
16 Component, the design, construction and operation of the Housing Component, and the
17 design, construction and maintenance of the common infrastructure that would be shared by
18 the Bus Yard Component and the Housing Component (“Project Documents”); and

19 WHEREAS, If City staff and PNC mutually agree to the forms of the Project Documents
20 during the term of the Modified PDA, the SFMTA will seek approval to those Project
21 Documents from the SFMTA Board of Directors and the Board of Supervisors before the
22 expiration of the term of the Modified PDA; and

23 WHEREAS, The SFMTA can terminate the Modified PDA at any time for convenience,
24 and if the Modified PDA terminates for any reason other than PNC’s default or the parties’
25

1 execution of the Project Documents, the Modified PDA includes proposal and termination
2 payments (together, the "Termination Payment") to PNC that will not exceed \$9,990,000; and

3 WHEREAS, The Modified PDA includes a continuation payment of \$4,350,000 that
4 was authorized by the Board of Supervisors under Resolution 107-24, a copy of which is on
5 file with the Clerk of the Board of Supervisors in File No. 240136; and

6 WHEREAS, The term of the Modified PDA will expire on October 18, 2024, and the
7 parties need to extend its term to seek potential federal and other funding for the Project and
8 address City changes to the Project terms; and

9 WHEREAS, The Second Amendment to Predevelopment Agreement ("Second
10 Amendment"), a copy of which is on file with the Clerk of the Board of Supervisors in File
11 No. 240937, would (a) increase the Termination Payment by \$5,556,566 for a total
12 Termination Payment that will not exceed \$15,546,566, (b) require the Lead Developer to
13 perform the activities described in the Second Amendment, (c) extend the PDA term to no
14 later than July 31, 2025, and (d) be retroactively effective as of October 17, 2024; and

15 WHEREAS, Under Charter, Section 9.118, the SFMTA needs the approval of Board of
16 Supervisors to increase the Termination Payment by more than \$500,000; and,

17 WHEREAS, On October 1, 2024, the SFMTA Board of Directors approved Resolution
18 No. 241001-114, a copy of which is on file with the Clerk of the Board of Supervisors in File
19 No. 240937, authorizing the Director of Transportation to seek approval of the Second
20 Amendment from the Board of Supervisors and to execute the Second Amendment if
21 approved by the Board of Supervisors; and

22 WHEREAS, On January 11, 2024, by Motion No. 21482, a copy of which is on file with
23 the Clerk of the Board of Supervisors in File No. 231256, the Planning Commission certified
24 as adequate, accurate, and complete the Environmental Impact Report for the Project ("Final
25

1 EIR") pursuant to CEQA, the CEQA Guidelines (Cal. Code Reg. Sections 15000 et seq.) and
2 Chapter 31 of the Administrative Code; and

3 WHEREAS, The SFMTA and the Planning Department determined the Second
4 Amendment is not a "project" under CEQA pursuant to CEQA Guidelines Sections 15060(c)
5 and 15378(b) because the action would not result in a direct or reasonably foreseeable
6 indirect physical change to the environment beyond the scope analyzed in the Final EIR, and
7 a copy of that determination is on file with the Clerk of the Board of Supervisors in File
8 No.240937; and

9 WHEREAS, The Board of Supervisors has reviewed the Final EIR and the
10 determination regarding this Second Amendment, concurs with their conclusions, and affirms
11 the Planning Commission's certification of the Final EIR, and finds that the actions
12 contemplated in this resolution are within the scope of the Project described and analyzed in
13 the Final EIR; now, therefore, be it

14 RESOLVED, If the Board of Supervisors approves the Second Amendment and
15 authorizes the SFMTA Director of Transportation to enter into the Second Amendment, which
16 will be retroactively effective as of October 17, 2024, to take actions reasonably necessary or
17 prudent to perform the City's obligations under the Modified PDA, as amended by the Second
18 Amendment ("Amended PDA"), in accordance with its terms, and to enter into any additions,
19 amendments or other modifications to the Amended PDA, as amended by the Second
20 Amendment, that the Director of Transportation determines are in the best interests of the City
21 and that do not materially increase the obligations or liabilities of the City or materially
22 decrease the benefits to the City as provided in the Amended PDA; and, be it

23 FURTHER RESOLVED, That within 30 days of the Second Amendment being
24 executed by all parties, the SFMTA shall provide the final Second Amendment to the Clerk of
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1 the Board of Supervisors within 30 days of the full execution of the Second Amendment for
2 inclusion into the official file.

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Item 4 File 24-0937	Department: San Francisco Municipal Transportation Agency (MTA)
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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would retroactively approve a Second Amendment to the Predevelopment Agreement between Potrero Neighborhood Collective LLC and the San Francisco Municipal Transportation Agency (SFMTA) to increase the potential termination payment by \$5,556,566 for a total potential payment not to exceed \$15,546,566. If approved, the effective date of the amendment would be October 17, 2024.

Key Points

- The Potrero Yard Modernization Project (the Project) will replace the existing Potrero bus yard and two-story building with a four-story bus maintenance and storage facility and up to 465 affordable housing units, some of which would be constructed on top of the bus yard. The project is being developed by Potrero Neighborhood Collective (PNC), led by Plenary Americas US Holdings Inc.
- Under a November 2022 Predevelopment Agreement, PNC is responsible for funding predevelopment activities. The original agreement provides for a potential termination payment not to exceed \$9,990,000 and continuation payment of \$4,350,000 once the project has received necessary Planning entitlements and CEQA approvals, for a total potential cost of \$14,340,000. In March 2024, the Board of Supervisors approved the predevelopment agreement to facilitate payment of the continuation payment.
- The amendment would extend the term of the Predevelopment Agreement by approximately 9.5 months from October 18, 2024 to July 31, 2025. The proposed amendment would increase the potential termination payment to account for an increase in expected costs for the Lead Developer to perform the required work due to the extension of the predevelopment period and additional costs associated with incorporating City proposed changes to the bus facility. This increases the maximum potential cost of the predevelopment agreement from \$14,340,000 to \$19,896,566.

Fiscal Impact

- If the agreement is terminated for any reason besides default of the Lead Developer, the termination payment would be funded by project funds, which are funded by required baseline contributions from the City’s General Fund to MTA, transportation sales tax revenues, and bridge toll revenues for transportation projects. The amount of the termination payment depends on the project phase and may not exceed the developer’s qualified costs of performing the work.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

Potrero Yard Modernization Project

Potrero Yard, a 4.4-acre site located at Bryant Street and Mariposa Street, is a 100-year-old facility that currently serves as a trolley bus storage yard and maintenance facility. The Potrero Yard Modernization Project (the Project) will replace the existing trolley bus yard and two-story building with a modern, four-story bus maintenance and storage facility (Bus Yard Component) to expand capacity, improve worker safety, enhance worksite efficiency, and align the worksite with City policy objectives related to environmental sustainability. The site is being developed through a “joint development” model, and the proposed Project would also add approximately 2,886 square feet of ground floor commercial space and housing adjacent to and above the Bus Yard Component to provide 465 units of housing (Housing and Commercial Component), all of which would be affordable to low- to moderate-income residents.¹ The proposed 465 housing units include 104 units of housing in a 13-story building along Bryant Street and 361 housing units to be constructed on top of the bus yard facility.

If construction of the 361 units above the bus yard is infeasible due to inadequate financing, an alternative proposal would extend the bus yard facility onto the fifth floor to house MTA’s Paratransit division, including administrative and operation spaces and paratransit vehicle storage. The alternative proposal would still provide the low-income 104 units of housing along Bryant Street.

MTA selected Potrero Neighborhood Collective (PNC), led by Plenary Americas US Holdings Inc.² to be the Lead Developer of the project following a competitive solicitation process. The proposed Project is currently undergoing predevelopment and will be constructed in three phases. Phase 1 includes construction of the MTA bus maintenance and storage facility. Phase 2 includes construction of housing along Bryant Street, and Phase 3 includes construction of housing on top of the bus maintenance and storage facility. According to MTA staff, construction

¹ According to MTA, 465 housing units would be composed of 247 low-income (80% AMI or below) units and 218 moderate-income (81% - 120% AMI) units. Units range from studios to family-sized units (three bedrooms or more).

² According to its website, Plenary Americas is a long-term investor, manager, and developer of public and private infrastructure, with a focus on public-private partnerships. Plenary Americas is owned by CDPQ, an institutional investor that manages insurance programs and pension plans in Quebec.

of Phase 1, including the bus facility and common infrastructure is anticipated to begin in summer 2025.

Predevelopment Agreement

In November 2022, the MTA executed a predevelopment agreement with PNC, per authorization granted by the MTA Board of Directors. The predevelopment agreement covers the Project’s predevelopment activities, including development of financing plans, schematic designs, and maintenance plans, project entitlements, and contractor procurement to design and build the bus yard and maintain the infrastructure. The agreement also provides the terms for the MTA and PNC negotiations to develop the terms for one or more project agreements to deliver the Bus Yard and Housing and Commercial Components. The project agreements will be subject to Board of Supervisors’ approval. The original agreement provided for a maximum term of 568 days from November 2, 2022 to May 23, 2024 and a maximum potential payment of \$14,340,000 to the Lead Developer, including a potential termination payment not to exceed \$9,990,000 and potential continuation payment of \$4,350,000 (described below).

In March 2024, the Board of Supervisors approved the predevelopment agreement to facilitate payment of the continuation payment (File 24-0136).

In May 2024, the SFMTA administratively approved the First Amendment to the predevelopment agreement to: (a) extend the predevelopment term by approximately four months through October 18, 2024; (b) extend the outside delivery date of the project by two years to November 30, 2029 and extend the timing for substantial completion of the housing and commercial component; (c) update the description and unit counts for the affordable housing projects; (d) specify terms related to the alternative paratransit component; and (e) make changes to the housing developers and affordable housing developers.

According to MTA staff, the affordable housing projects were changed to best align with potential affordable housing funding opportunities which favor family housing. Instead of delivering one senior housing project and two family housing projects with each containing between 80 and 110 units, the project will deliver two slightly larger family housing projects with each containing between 110 and 191 units. In addition, the project will also deliver one moderate income project with 218 units instead of 284 units under the original agreement. These changes resulted in an overall reduction in the number of housing units delivered by the project from 513 to 465 with no change in the total number of bedrooms due to the increase in family housing units.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would retroactively approve a Second Amendment to the Predevelopment Agreement between Potrero Neighborhood Collective LLC and the SFMTA to increase the potential termination payment by \$5,556,566 for a total potential payment not to exceed \$15,546,566. If approved, the effective date of the amendment would be October 17, 2024.

The proposed amendment would extend the term of the Predevelopment Agreement by approximately 9.5 months from October 18, 2024 to July 31, 2025. According to MTA staff this

extension will allow for completion of site due diligence including utility planning, additional review of financing strategy, including pursuit of potential federal funding, and design adjustments that will provide greater flexibility including the paratransit variant. Design adjustments are also needed to incorporate City requested changes to the bus facility. According to MTA staff, in August 2024, MTA requested a change in the share of 40-foot versus 60-foot electric trolley buses to allow for more electric trolley buses to be operated from and maintained at the Potrero Yard within the same footprint, with slight interior modifications

The amendment would also extend the date of financial close for the infrastructure by two months from May 31, 2025 to July 31, 2025. The amendment also requires the Lead Developer to: (a) obtain apply for a site permit for the Infrastructure Facility construction from the Department of Building Inspections before November 30, 2024 to ensure substantial completion of the infrastructure by November 30, 2029; and (b) complete certain activities related to additional environmental review associated with potential Federal funding for the Project, including procuring and paying consultants for environmental review and providing materials needed for the review.

Continuation and Termination Payments

PNC is responsible for funding predevelopment activities during the term of the predevelopment agreement. Predevelopment activities include design work, preparation of project schedules and negotiating the project agreements for the bus yard, housing, and commercial space development components of the project, developing financing plans for the project, obtaining permits and entitlements, and developing a plan to procure contractors, including local business enterprises, for project delivery. The agreement requires MTA to pay the Lead Developer a termination payment if the agreement is terminated for any reason except developer default. The termination payment amount depends on the project phase, and the amount may not exceed the Lead Developer's qualified costs of performing the work. The current agreement provides for a potential termination payment not to exceed \$9,990,000 and potential continuation payment of \$4,350,000 once the project has received necessary Planning entitlements and CEQA approvals, for a total potential cost of \$14,340,000. According to MTA staff, MTA paid the continuation payment to PNC in August 2024.

The proposed amendment would increase the potential termination payment by \$5,556,566 for a not to exceed amount of \$15,546,566 to account for an increase in expected costs for the Lead Developer to perform the required work due to the extension of the predevelopment period and additional costs associated with incorporating City proposed changes to the bus facility. The proposed amendment similarly increases the termination payment for two interim milestones by \$5,556,566. The termination payment would increase from \$7,640,000 to \$13,196,566 if the agreement is terminated after completion of predevelopment Phase 2 work, and the termination payment would increase from \$8,640,000 to \$14,196,566 if the agreement is terminated after completion of predevelopment Phase 3 work.

FISCAL IMPACT

The proposed resolution would increase the maximum potential termination payment by \$5,556,566 for a not to exceed amount of \$15,546,566. This increases the maximum potential cost of the predevelopment agreement from \$14,340,000 to \$19,896,566, including the continuation payment of \$4,350,000. The proposed \$5,556,566 increase in the maximum termination amount includes \$2.84 million for internal costs of the Lead Developer over the extended predevelopment period, costs associated with the environmental review, a design consultant, City requested changes to the bus facility, and the site permit fee, as well as a five percent contingency and third-party financing costs.

If the agreement is terminated for any reason besides default of the Lead Developer, the termination payment would be funded by project funds, which are funded by required baseline contributions from the City's General Fund to MTA, transportation sales tax revenues, and bridge toll revenues for transportation projects. As noted above, the amount of the termination payment depends on the project phase and may not exceed the developer's qualified costs of performing the work.

RECOMMENDATION

Approve the proposed resolution.

SECOND AMENDMENT TO PREDEVELOPMENT AGREEMENT

This Second Amendment to Predevelopment Agreement dated for reference purposes only as of October 1, 2024 (this “**Second Amendment**”), is by and between the City and County of San Francisco (“**City**”), a municipal corporation acting by and through the San Francisco Municipal Transportation Agency (“**SFMTA**”), and Potrero Neighborhood Collective LLC, a limited liability company organized under the laws of the State of Delaware (“**Lead Developer**”). City and Lead Developer are also each referred to as a “**Party**” and together referred to as the “**Parties**” below.

RECITALS

A. City and Lead Developer executed a Predevelopment Agreement dated for reference purposes only as of November 2, 2022 (the “**Original Agreement**”) for the predevelopment of the Project (as defined in the Original Agreement), as amended by a First Amendment to Predevelopment Agreement dated for reference purposes only as of May 29, 2024 (“**First Amendment**”). All undefined, initially-capitalized terms used in this Second Amendment shall have the meanings given to them in the Original Agreement, as modified by the First Amendment (the “**Modified Agreement**”).

B. The Parties wish to amend the Modified Agreement on the terms and conditions below.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the foregoing Recitals, the agreements set forth in this Second Amendment and other good and valuable consideration, the receipt and adequacy of which are acknowledged, City and Lead Developer agree as follows:

1. Extended Dates for Predevelopment Period and IF Financial Close.

(a) Section 1.171 of the Original Agreement is amended in its entirety to read as follows:

“1.171. “Predevelopment Period” means the period between the Commencement Date and July 31, 2025, as may be extended by in accordance with Section 3.1 of the Original Agreement.”

(b) All references in the Modified Agreement requiring IF Financial Close no later than May 31, 2025, are amended to be July 31, 2025.

2. Increase in Termination Payment. The Modified Agreement requires Lead Developer to perform the predevelopment work specified in the Modified Agreement, as well as all other predevelopment activities required to allow for Substantial Completion of the Infrastructure Facility within the Fixed Budget Limit no later than the Outside Delivery Date. Extending the Predevelopment Period will increase the Lead Developer’s costs to perform this work and these activities. Lead Developer also incurred additional costs to incorporate all City Proposed Changes, including the City Proposed Change described in a letter dated as of August 23, 2024, which increased the number of buses that would be stored and maintained at the Infrastructure Facility in the designs Lead Developer is required to submit to the SFMTA, and to assist the SFMTA in seeking federal funding for the Project. Accordingly, the Parties agree to modify the financial terms in the Original Agreement as follows.

(a) The first paragraph of Section 16.3 of the Original Agreement is amended in its entirety to read as follows:

“16.3. Termination Payments. If this Agreement terminates before Commercial Close for any reason, City will have no obligation to reimburse or otherwise pay Lead Developer for any of Lead Developer’s Project costs or expenses. Notwithstanding anything to the contrary in the foregoing sentence, City shall, in exchange for an executed release from Lead Developer satisfactory in form and substance to City, make the following payments (each, a “Termination Payment”), as applicable, to Lead Developer if this Agreement terminates before Commercial Close for any reason other than an LD Event of Default and Lead Developer has performed its obligations under Section 16.6(a). The executed release from Lead Developer shall release, waive, and discharge City and City Agents of and from all liabilities, obligations, claims, and demands whatsoever arising out of or under this Agreement. City’s liability to Lead Developer with respect to any claims or Disputes arising from this Agreement shall not exceed Fifteen Million Five Hundred Forty-Six Thousand Five Hundred Sixty-Six Dollars (\$15,546,566) plus the amount of the Continuation Payment, if paid. City’s payment of any Termination Payment shall not affect any of City’s rights under this Agreement, as amended, with respect to completed Work, or relieve Lead Developer or any Guarantor from its respective obligations with respect thereto.”

(b) Section 16.3(c) of the Original Agreement is amended in its entirety to read as follows:

“(c) PDA Phase 2. If this Agreement terminates for any reason other than an LD Event of Default after Performance Milestone 16 and Lead Developer has timely delivered the materials described as Performance Milestone 27, and those materials comply with all the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of (A) the PDA Phase 1 Costs and Lead Developer’s Qualified Out-of-Pocket Costs to provide those PDA Phase 2 materials (“PDA Phase 2 Costs”) and (B) Thirteen Million One Hundred Ninety-Six Thousand Five Hundred Sixty-Six Dollars (\$13,196,566). Lead Developer must submit commercially reasonable evidence of its PDA Phase 1 Costs and its PDA Phase 2 Costs to City before City is obligated to make any payment under this subsection (c).”

(c) Section 16.3(d) of the Original Agreement is amended in its entirety to read as follows:

“(d) PDA Phase 3. If this Agreement terminates for any reason other than an LD Event of Default after Performance Milestone 28 and after Lead Developer has timely delivered the materials and evidence described as Performance Milestones 32 and 33, and those materials comply with all the applicable requirements for them in the attached Appendix B-2, then, in addition to the Proposal Payment, City will pay Lead Developer an amount equal to the lesser of (A) the PDA Phase 1 Costs, the PDA Phase 2 Costs and Lead Developer’s Qualified Out-of-Pocket Costs to provide those PDA Phase 3 materials and perform those PDA Phase 3 activities (“PDA Phase 3 Costs”) and (B) Fourteen Million One Hundred Ninety-Six Thousand Five Hundred Sixty-Six Dollars (\$14,196,566). Lead Developer must submit

commercially reasonable evidence of its PDA Phase 1 Costs, its PDA Phase 2 Costs, and its PDA Phase 3 Costs to City before City is obligated to make any payment under this subsection (d).”

(d) Section 21.3(a) of the Original Agreement is amended in its entirety to read as follows:

“(a) Except as provided in Section 21.3(b), Lead Developer’s liability to City for damages, including direct, indirect and consequential damages, arising out of Lead Developer’s performance of this Agreement, as amended (or failure to perform hereunder) shall be limited to Fifteen Million Five Hundred Forty-Six Thousand Five Hundred Sixty-Six Dollars (\$15,546,566) plus the amount of the Continuation Payment if paid.”

3. Site Permit for the Infrastructure Facility. Lead Developer acknowledges it is necessary to obtain a site permit for the construction of the Infrastructure Facility (“Site Permit”) from City’s Department of Building Inspections (“DBI”) before the Outside Performance Date to facilitate Substantial Completion of the Infrastructure Facility by November 30, 2029. Accordingly, Lead Developer agrees to submit the Site Permit application and pay the related application fee at its sole cost on or before November 30, 2024, and to take all commercially reasonable efforts to pursue the issuance of the Site Permit (including the submission of any information or materials required by DBI) before the Outside Performance Date. For the avoidance of doubt, the Site Permit application fee and the costs incurred by Lead Developer for work associated with advancing the Site Permit will be Qualified Out-of-Pocket Costs.

4. Additional Environmental Review. The SFMTA is seeking potential federal funding for the Project, which would require environmental compliance under federal law, including the National Environmental Policy Act (“NEPA”) under 42 U.S.C. Section 4321 *et seq* and Section 106 of the National Historic Preservation Act. The SFMTA will take the lead in pursuing the needed review for Project environmental compliance under federal law (“Federal Environmental Review”), directing consultants work on the Federal Environmental Review and in facilitating conversations with the United States Department of Transportation Federal Transit Administration (“FTA”), provided that Lead Developer must procure and pay the consultants for the Federal Environmental Review and timely collaborate with the SFMTA with respect to all SFMTA and FTA comments and requests with respect to the Federal Environmental Review. Lead Developer must also provide the SFMTA with all supporting materials needed for the Federal Environmental Review (including but not limited to drawings, analyses, data points, and project features, and revisions of the requested materials) within two (two) business days of the SFMTA’s request for those comments or materials; provided, however, that if those comments or materials cannot be reasonably provided within that two (2) business day period, Lead Developer must provide them to the SFMTA as soon as reasonably possible.

5. No Joint Venture. Nothing in this Second Amendment shall be construed to place the Parties in the relationship of partners or joint ventures or to create any third-party beneficiary rights in any third party. City is not a fiduciary and has no special responsibilities to Lead Developer beyond the obligations expressly set forth in the Modified Agreement, as amended by this Second Amendment.

6. Governing Law. This Second Amendment will be construed and enforced in accordance with the laws of the State of California and City’s Charter.

7. Party Drafter; Captions. The provisions of this Second Amendment will be construed as a whole according to their common meaning and not strictly for or against either Party in order to achieve the objectives and purposes of the Parties. Any caption preceding the text of any Section, paragraph or subsection or in the table of contents is included only for convenience of

reference and will be disregarded in the construction and interpretation of this Second Amendment.

8. Counterpart Signatures and Electronic Delivery. This Second Amendment may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. A signature delivered on any counterpart by DocuSign, using multifactor authentication, shall for all purposes be deemed to be an original signature to this Second Amendment.

9. Legal Effect; Effective Date. Except as expressly modified by this Second Amendment, all of the terms and conditions of the Original Agreement shall remain unchanged and in full force and effect. Once fully executed, this Second Amendment shall be effective as of October 17, 2024.

Lead Developer and City have executed this Second Amendment as of the last date written below.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the San Francisco Municipal Transportation Agency

By: _____
Jeffrey Tumlin
Director of Transportation

Date: _____

APPROVED AS TO FORM:

David Chiu, City Attorney

By: _____
Carol Wong
Deputy City Attorney

LEAD DEVELOPER:

POTRERO NEIGHBORHOOD COLLECTIVE
LLC, a limited liability company organized under
the laws of the State of Delaware.

By: *Stuart Marks*

Stuart Marks
Vice President

Date: September 20, 2024



SFMTA

Potrero Yard Modernization Project

Second Amendment to Predevelopment Agreement

Board of Supervisors, Budget and Finance Committee
October 9, 2024

New Bus Maintenance & Storage Facility

Approximately **500K** square feet of added maintenance and storage space will support:



246

all-electric trolley buses



1,100+

total staff and operators

Enhanced Employee Wellness including natural light and dedicated employee outdoor spaces.

Podium provides structural integrity to build proposed housing above bus yard.

Enclosed and Centralized Maintenance Activities on ground floor to insulate noise within building.

Support Transportation Demand Management Planning including parking for Non-Revenue Vehicles, car share service, and bicycles.

Roof Deck caps the bus yard and insulates noise and vibration to mitigate impact on Potrero Yard residents and surrounding neighbors.

Public Visibility to Yard Operations through a glass wall on 17th Street and metal screening around 2nd and 3rd floors.



Refined Project and Paratransit Variant



- ~ 1,240,000 gross square feet (gsf)
 - Transit Facility: 698,697 gsf
 - Residential: 531,912 gsf
 - Commercial: 2,931 gsf
- 465 residential units
- 246 Muni buses
- 161 SFMTA non-revenue vehicles

- ~ 1,010,000 gross square feet (gsf)
 - Transit Facility: 854,697 gsf
 - Residential: 149,176 gsf
 - Commercial: 3000 gsf
- 104 residential units
- 246 Muni buses
- 161 SFMTA non-revenue vehicles
- 160 SFMTA paratransit vehicles



BUILDING PROGRESS

Affordable & Workforce Housing

First-in-the-nation joint development of a bus facility with housing and commercial spaces.

BRYANT STREET AND
17th STREET

Proposed Housing Mix:

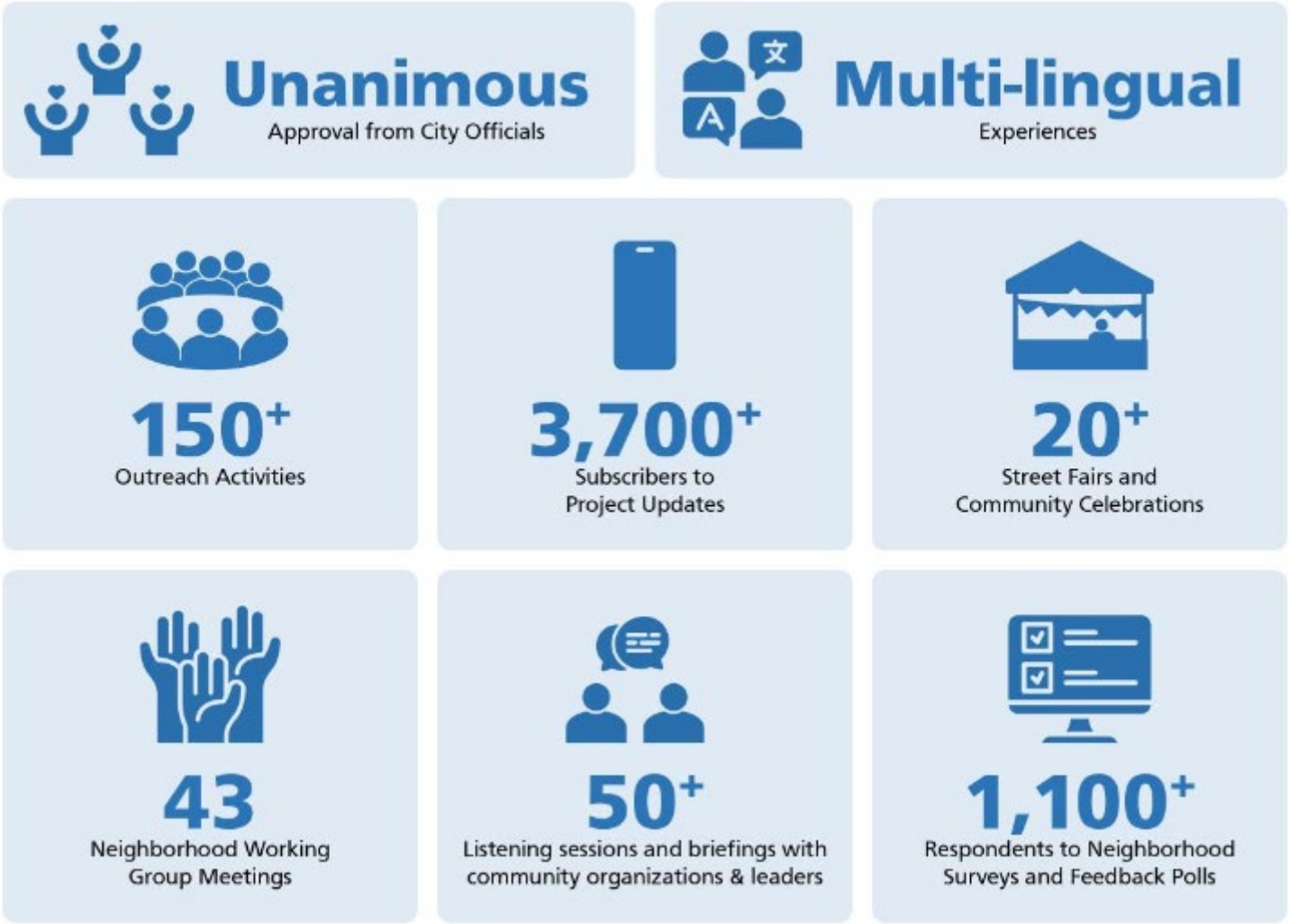
- Affordable Housing
(Up to 80% AMI; 247 units)
- Workforce Housing
(80-120% AMI; 218 units)



Housing program is subject to feasibility. No resident parking will be provided on site.



Community Input has Shaped the Project



BUILDING PROGRESS

PDA Amendment

- Second amendment to the Predevelopment Agreement (PDA) to extend the term of the PDA to **July 31, 2025**
- Increase the maximum Termination Payment by \$5,556,566
 - New total maximum = **\$15,546,566**

Legislative schedule for PDA second amendment

9/24/2024	10/1/2024	10/9/2024	10/22/2024
BOS Legislation Introduction	SFMTA Board	BOS Budget and Finance Committee	Full Board of Supervisors

Overall Project Schedule

Recent and upcoming project milestones:

2018–2022

2022

2023 – 2025

2025 – 2029

2029

- ✓ SFMTA planning and community outreach and engagement to advance the Potrero Yard Modernization Project

- ✓ Project pre-planning completed
- ✓ PNC selected as project Development Team

- ✓ Entitlements granted
- ✓ Updated the Environmental Impact Report (EIR) as part of California Environmental Quality Act (CEQA) requirements
- Contractor procurement for bus yard
- **Entering into Project Agreements (PA) with city:**
 - **End of '24: Bus Yard Facility PA introduced**
 - **Spring '25: Housing / Commercial PA introduced**
- Housing developers identify and secure funding for Phase 1 of housing

- Construct new bus yard
- Operations temporarily relocated
- Conduct Contractor Procurement for Phase 1 of housing
- Housing developers continue identifying and securing funding for Phase 1 of housing

- Bus yard opens
- Construction of housing, retail spaces, and other uses

Thank You

Chris Lazaro

Project Director — Potrero Yard Modernization Project
Assistant Building Progress Program Manager
Chris.Lazaro@SFMTA.com

Bonnie Jean von Krogh

Building Progress Public Affairs Manager
BonnieJean.vonKrogh@SFMTA.com

John Angelico

Public Information Officer
John.Angelico@SFMTA.com

FIRST AMENDMENT TO PREDEVELOPMENT AGREEMENT

This First Amendment to Predevelopment Agreement dated for reference purposes only as of May 29, 2024 (this “**Amendment**”), is by and between the City and County of San Francisco (“**City**”), a municipal corporation acting by and through the San Francisco Municipal Transportation Agency (“**SFMTA**”), and Potrero Neighborhood Collective LLC, a limited liability company organized under the laws of the State of Delaware (“**Lead Developer**”). City and Lead Developer are also each referred to as a “**Party**” and together referred to as the “**Parties**” below.

RECITALS

A. City and Lead Developer are parties to a Predevelopment Agreement dated for reference purposes only as of November 2, 2022 (the “**Original Agreement**”) for the predevelopment of the Project (as defined in the Original Agreement). All undefined, initially-capitalized terms used in this Amendment shall have the meanings given to them in the Original Agreement, and the Original Agreement, as modified by this Amendment, shall be referred to below as the “**Modified Agreement**”.

B. The Parties wish to modify the Original Agreement on the terms and conditions below.

AGREEMENT

ACCORDINGLY, in consideration of the matters described in the foregoing Recitals, the agreements set forth in this Amendment and other good and valuable consideration, the receipt and adequacy of which are acknowledged, City and Lead Developer agree as follows:

1. Changed Definitions. The following definitions in Section 1 of the Original Agreement are modified as follows:

(a) Affordable Housing Developer. Section 1.6 of the Original Agreement is amended in its entirety to read as follows:

“1.6. “Affordable Housing Developer” means, together, Mission Economic Development Agency and Tabernacle Community Development Corp.”

(b) Affordable Units. Section 1.7 of the Original Agreement is amended in its entirety to read as follows:

“1.7. “Affordable Units” means the affordable units in the Proposed HCC, which are comprised of two low income projects (a family housing project facing Bryant Street and a family housing project along the southwestern corner of the Facility, with each containing between 110-191 units), and one moderate income project (containing approximately 218 units), subject to any modification pursuant to Section 9.2 (HCC Change) or Section 9.3 (Changes Proposed by City).”

(c) Facility. Section 1.77 of the Original Agreement is amended in its entirety to read as follows:

“1.77. “Facility” collectively means the Bus Yard Component, Housing and Commercial Component, Common Infrastructure, and at City’s election, an alternative podium paratransit component.”

(d) Housing Developer. Section 1.107 of the Original Agreement is amended in its entirety to read as follows:

“1.107. “Housing Developer” means Plenary Potrero Housing LLC, a California limited liability company.”

(e) Outside Delivery Date. Section 1.153 of the Original Agreement is amended in its entirety to read as follows:

“1.153. “Outside Delivery Date” means November 30, 2029.

(f) Predevelopment Period. Section 1.171 of the Original Agreement is amended in its entirety to read as follows:

“1.171. “Predevelopment Period” means the period between the Commencement Date and October 18, 2024, as may be extended by in accordance with Section 3.1 of the Original Agreement.”

2. Infrastructure Facility.

(a) Timing for IF Financial Close. All references in the Original Agreement requiring IF Financial Close no later than November 30, 2024, are amended to require IF Financial Close no later than May 30, 2025.

(b) Timing for Substantial Completion of Infrastructure Facility. All references in Appendix D to the Original Agreement to November 30, 2027, are amended to be November 30, 2029.

3. Housing and Commercial Component.

(a) Timing for Substantial Completion. All references in the Original Agreement that require Substantial Completion of the Housing and Commercial Component no later than one year after Substantial Completion of the Infrastructure Facility are amended to require that (i) construction of any Housing and Commercial Component housing project to be built on the completed Infrastructure Facility roof deck (a “Podium Housing Project”) commence no later than three years after Substantial Completion of the Infrastructure Facility, as may be extended by City in its sole discretion, and (ii) construction of any Housing and Commercial Component project to be located adjacent to the Bus Yard Component and along Bryant Street commence no later than five years after IF Financial Close, as may be extended by City in its sole discretion.

(b) Changes to HCC Interface Requirements.

(i) Section 6.9(a)(iv)(A)(4) is deleted in its entirety; provided, however, that Podium Housing Project construction activities occurring above the completed Infrastructure Facility roof deck must not negatively impact the roof deck or the SFMTA operations being performed within the Infrastructure Facility.

(ii) Section 6.9(a)(iv)(B) of the Original Agreement is amended in its entirety to read as follows:

“B. To ensure that Podium Housing construction activities will not negatively impact the roof deck or SFMTA operations within the Infrastructure Facility, on

or before the sixtieth (60th) day immediately following City's issuance (if any) of Notice to Proceed #3, Lead Developer shall deliver the following draft materials (collectively, the "Podium Housing Pre-Construction Materials") to City:

1. Structural analysis and designs that address potential impact loads from accidental loading on the completed Infrastructure Facility roof deck;
2. A Podium Housing Project podium housing permitting plan and construction plan (together, the "Podium Permitting and Construction Plans") that address the nature of phased vertical delivery (including the proposed laydown and staging areas, crane use, phasing, delivery of materials, hoisting) and demonstrate how the Podium Housing Projects will be constructed on the completed Infrastructure Facility roof deck in a manner that avoids damage to the Infrastructure Facility and interference with Infrastructure Facility operations.
3. Mitigation and monitoring measures (the "Podium Mitigation and Monitoring Measures") that will objectively track any impact from the construction of the Podium Housing Projects to the Infrastructure Facility or on Infrastructure Facility operations and describe the temporary and permanent sensors that will be used within and throughout the Infrastructure to track vibration and noise impacts from construction of the Podium Housing Projects."

(C) City shall provide Lead Developer with its comments to the Podium Housing Pre-Construction Materials within fifteen (15) Business Days of receiving all of the draft Podium Housing Pre-Construction Materials from Lead Developer. Lead Developer shall further develop the Podium Housing Pre-Construction Materials to incorporate City's comments and finalize them in a form approved by City. Lead Developer must obtain City's approval to the final form of the Podium Housing Pre-Construction Materials on or before the ninetieth (90th) day immediately following City's issuance (if any) of Notice to Proceed #3. The HCC Agreement shall require that all Podium Housing Project construction on the completed roof deck of the Infrastructure Facility be performed in conformity and compliance with the approved Podium Permitting and Construction Plans and Podium Mitigation and Monitoring Measures."

(d) California Surplus Land Act Requirements. All references in the Original Agreement to California Government Code Section 54221(f)(1)(F)(i) and Section 54221(f)(1)(F)(ii) are amended to, respectively, California Government Code Section 54221(f)(1)(F) and Section 54221(f)(1)(G).

4. Work for Paratransit Component Alternative. Section 3.2.1 of Appendix B-2 to the Original Agreement is amended to include the requirement:

"27. Alternative paratransit component schematic design that integrates a paratransit component on the completed Infrastructure Facility roof deck and includes the spaces needed for City's paratransit operation and maintenance activities at the Facility, with access and egress from vehicular ramps extending from the Bus Yard Component onto the Infrastructure Facility roof deck, and meet the paratransit criteria in Division 3 of the Technical Requirements. The Parties anticipate that any paratransit component would be delivered pursuant to a Project Agreement change order and developed as a "Joint Development Alternative 2 (Paratransit Component)"."

5. Continuation Notice. The first sentence of Section 4.2(d)(i) of the Original Agreement is amended in its entirety to read as follows:

“If the Floating Milestone Date occurs, then Lead Developer’s obligation and authorization to perform the Work shall automatically be suspended as of the Floating Milestone Date unless City elects, in its sole discretion, to issue a Notice to Proceed for the continuation of the Work (a “Continuation Notice”).”

6. Final Price Adjustment for Reprocurement Due to Unavoidable Delay or a Regulatory Appeal. Section 6.15(e)(i) of the Original Agreement is amended in its entirety to read as follows:

“If the Parties mutually agree to extend the Predevelopment Period beyond May 30, 2025, as result of an Unavoidable Delay or a Regulatory Appeal Delay, the Parties will adjust the Final Price and modify the escalation amount set forth in FS Form A8 delivered at Performance Milestone 27A by adding the Reprocurement Amount (defined as follows), if applicable, and modifying the escalation amount given in the modified FS Form D submitted at Performance Milestone 32 to extend the assumed mid-point of construction by the number of days between May 30, 2025 and the extended date of Commercial Close. E.g., if Commercial Close occurs on June 1, 2025, the assumed mid-point of construction will be September 1, 2027. If an Unavoidable Delay or a Regulatory Appeal Delay occurs after Performance Milestone 32 and is not resolved until after the bid validity period for the Design-Build Contract for the Infrastructure Facility or the IFM Contract, the “Reprocurement Amount” shall be Lead Developer’s actual costs to reprocure the Design-Build Contract for the Infrastructure Facility or IFM Contract, as applicable.”

7. Change in LD Project Manager and City Project Director. Section 7.3 of the Original Agreement is amended to identify Chris Jauregui as the LD Project Manager and Chris Lazaro as the City Project Director.

8. Notices. Section 23 of the Original Agreement is amended in its entirety to read as follows:

“Any notice given under the Agreement must be in writing. Unless otherwise indicated in the Agreement, all written communications sent by the Parties may be by U.S. first class mail or email, and shall be addressed as follows:

City: San Francisco Municipal Transportation Agency
1 South Van Ness, 8th Floor
San Francisco, CA 94103
Attn: Chris Lazaro
Email: Chris.lazaro@sfmta.com

With a copy to: Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Attn: Real Estate & Finance Group
Re: Potrero Yard Modernization Project
Email: Carol.R.Wong@sfcityatty.org

Lead Developer: Potrero Neighborhood Collective LLC
633 West Fifth Street, Suite 4975
Los Angeles, CA 90013
Attn: Stuart Marks
Re: Potrero Modernization Project
Email: Stuart.Marks@plenarygroup.com

With a copy to: Chris Jauregui
Potrero Neighborhood Collective LLC
633 West Fifth Street, Suite 4975
Los Angeles, CA 90013
Email: Chris.Jauregui@plenarygroup.com

Any notice of a City Event of Default or an LD Event of Default must be sent by (a) personal delivery, commercial courier (next business day delivery requested), or by registered, certified mail or express mail (return receipt requested, with postage prepaid) to the mailing addresses above, and (b) email to the e-mail addresses above, with the sender using the receipt notice feature. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party at least ten (10) days prior to the effective date of such change. If that address change is sent by email, the sender must specify a receipt notice.”

9. No Joint Venture. Nothing in this Amendment shall be construed to place the Parties in the relationship of partners or joint ventures or to create any third-party beneficiary rights in any third party. City is not a fiduciary and has no special responsibilities to Lead Developer beyond the obligations expressly set forth in the Agreement.

10. Governing Law. This Amendment will be construed and enforced in accordance with the laws of the State of California and City’s Charter.

11. Party Drafter; Captions. The provisions of this Amendment will be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purposes of the Parties. Any caption preceding the text of any Section, paragraph or subsection or in the table of contents is included only for convenience of reference and will be disregarded in the construction and interpretation of this Amendment.

12. Counterpart Signatures and Electronic Delivery. This Amendment may be executed in one or more counterparts, each of which shall be an original but all of which together shall be deemed to constitute a single agreement. A signature delivered on any counterpart by DocuSign, using multifactor authentication, shall for all purposes be deemed to be an original signature to this Amendment.

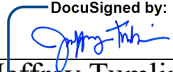
13. Legal Effect; Effective Date. Except as expressly modified by this Amendment, all of the terms and conditions of the Original Agreement shall remain unchanged and in full force and effect. This Amendment shall be effective as of the date it is fully executed by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

Lead Developer and City have executed this Amendment as of the last date written below.

CITY:

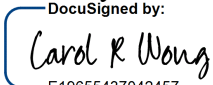
CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the San Francisco Municipal Transportation Agency

By: 
Jeffrey Tumlin
Director of Transportation

Date: 5/29/2024 | 3:41 PM PDT


APPROVED AS TO FORM:

David Chiu, City Attorney

By: 
Carol Wong
Deputy City Attorney

LEAD DEVELOPER:

POTRERO NEIGHBORHOOD COLLECTIVE
LLC, a limited liability company organized under
the laws of the State of Delaware.

By: 
Stuart Marks
Vice President

Date: 5/28/2024 | 7:31 PM PDT



London Breed, Mayor

Amanda Eaken, Chair
Stephanie Cajina, Vice Chair
Mike Chen, Director
Steve Heminger, Director

Dominica Henderson, Director
Fiona Hinze, Director
Janet Tarlov, Director

Jeffrey Tumlin, Director of Transportation

October 2, 2024

The Honorable Members of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton Goodlett Place, Room 244
San Francisco, CA 94102

Subject: Request for Approval – Resolution retroactively approving the Second Amendment to the Predevelopment Agreement with Potrero Neighborhood Collective LLC, for the Potrero Yard Modernization Project, effective as of October 17, 2024, to increase the potential combined proposal and termination payments by \$5,556,566 for a total that will not exceed \$15,546,566, expand the scope, and extend the term to July 31, 2025.

Honorable Members of the Board of Supervisors:

The San Francisco Municipal Transportation Agency (SFMTA) requests that the San Francisco Board of Supervisors retroactively approve a resolution approving the Second Amendment to the Predevelopment Agreement with Potrero Neighborhood Collective LLC (PNC), for the Potrero Yard Modernization Project (Project), to increase the potential combined proposal and termination payments (Termination Payment) by \$5,556,566 for a total Termination Payment that will not exceed \$15,546,566, increase the scope, and extend the term to July 31, 2025.

Background

The Project is part of the SFMTA's Building Progress Program (Program), a \$2+ billion multi-year effort to repair, renovate, and modernize the SFMTA's aging facilities to improve the overall transportation service delivery system in San Francisco. Built in 1915, Potrero Yard is scheduled to be the first site that the SFMTA will modernize and improve under the Program due to the age of the current facility and changes in bus fleet technology that make the current facility obsolete. The Project will replace the current facility with a new, multilevel bus facility (Bus Facility) that will not only improve maintenance and storage capabilities, but also contribute to a greener, more sustainable, and more reliable transportation system for San Francisco. The new Bus Facility will increase the capacity of Potrero Yard by about 68 percent and provide the green infrastructure needed for an all-electric fleet. These improvements are needed to ensure space for 246 of the SFMTA's electric trolley buses, both 40-foot and 60-foot, which the current facility cannot accommodate.

A key component of the Program is to maximize the use of SFMTA properties through joint development. Accordingly, the Project also includes a housing component (Housing Component) designed to maximize the number of housing units in recognition of the physical parameters of



the Bus Facility and the design guidelines established for the overall Project. The Project would also include common infrastructure to be shared by the Bus Facility and the Housing Component (Common Infrastructure).

Over the last seven years, the SFMTA has engaged a complete City team on the Project, partnering with the San Francisco Planning Department (Planning Department), the Mayor's Office of Housing and Community Development, the Office of Economic and Workforce Development, and San Francisco Public Works.

The Developer Partner and Predevelopment Agreement (PDA),

On November 1, 2022, the SFMTA Board of Directors approved awarding the Project's Predevelopment Agreement to PNC as the preferred proposer following a competitive procurement process for a lead developer. Although the SFMTA remained the project sponsor for the Project's environmental review, the PDA requires that PNC perform all needed Project predevelopment activities, including the entitlement process, design advancement, community outreach, and supporting the SFMTA in the environmental review process. The PDA also requires the SFMTA and PNC to develop agreements (Project Agreements) for the design, financing, and construction of the Bus Facility, the maintenance of the Bus Facility infrastructure and the Common Infrastructure, and the design, financing, construction and operation of the Housing Component. Once the SFMTA and PNC mutually agree to the terms of those Project Agreements, they will be finalized and presented to the SFMTA Board of Directors and Board of Supervisors for final approval.

The PNC development team includes the following parties: Plenary Americas US Holdings, Inc. as the equity member; Mission Economic Development Agency and Tabernacle Community Development Corporation as the affordable housing developer; Plenary Potrero Housing LLC as the moderate income housing developer; Arcadis as the design consultant; Plant Construction Company, L.P. and The Allen Group, LLC as the construction management consultant; WT Partnership as the infrastructure facility maintenance consultant; and D&A Communications as the communications consultant.

Consistent with typical City contract provisions, the SFMTA maintains the right to terminate the PDA for convenience at any time. If the PDA terminates for any reason other than PNC default or the parties' execution of the Project Agreements, the SFMTA must make the Termination Payment pursuant to the PDA. The Termination Payment amount increases in each PDA phase of work and is subject to the PNC's qualified costs in performing the predevelopment work required for that phase of work. The maximum amount of the Termination Payment under the current PDA is \$9,990,000.



Community and Stakeholder Engagement

Since December 2017, the Project team has led an extensive, inclusive, and transparent stakeholder engagement process to develop and design the new Potrero Yard. Community engagement has guided the Project through initial planning, the lead developer procurement process, and the launch of the City's first public-private partnership that produced the 100 percent schematic designs we have today. Community and stakeholder engagement continues as the Project enters the final phase of the PDA. Since November 2022, the SFMTA and PNC have worked with the community and other stakeholders to further develop project design. Stakeholders were engaged on open decision points, such as the look and feel of the new building, ideas for the Project's community and commercial spaces, the streetscape on 17th Street, landscaping, and public art.

Bilingual English-Spanish communications have been part of the engagement from the start. Major outreach activities to educate the community about the Project and solicit feedback have included 18 community events and open houses, 44 public tours of Potrero Yard, 46 meetings of the Potrero Yard Neighborhood Working Group, and 50+ meetings and listening sessions with community organizations. The Project team has also participated in annual community-sponsored events, including Carnaval SF; District 9 Neighborhood Beautification Day; Fiesta de las Americas; Friends of Franklin Square Park Cleanups; KQED Fest; Phoenix Day; Potrero Hill Festival; Sunday Streets - Valencia Street; and Transit Month.

In addition, the Project has been presented in a variety of public hearing settings to date, where formal public comment has been received and documented. Most recently this has included the EIR certification process and entitlements approvals, including the Recreation and Parks Commission (December 21, 2023), the Planning Commission (January 11, 2024), Board of Supervisors Land Use and Transportation Committee (February 26, 2024), Board of Supervisors Budget and Finance Committee (February 28, 2024) and the full Board of Supervisors (March 5 and March 12, 2024).

Paralleling the community outreach effort has been an extensive in-reach effort to frontline staff at Potrero Yard, including maintenance, operations, and administrative employees. Since November 2022, six in-reach meetings were held to update and solicit input from frontline staff, in addition to involving leadership at the Potrero Yard in the design of interior spaces in the Bus Facility. The SFMTA is working to establish a workforce housing preference for SFMTA employees at the site. A staff survey was developed with feedback from labor partners and targeted input from transit operators, maintenance, and other frontline staff. The survey was completed on January 10, 2024, and assessed SFMTA employees' housing needs and interest in the proposed workforce housing.

PDA Amendments

On May 29, 2024, the SFMTA, through its delegated authority to the Director of Transportation, approved the First Amendment to the PDA (First Amendment), which extended the PDA term to



the maximum extent allowed under that delegation, October 18, 2024. The First Amendment also revised key delivery dates for the Project, including timing for executing all financial documents needed for the design and construction of Bus Facility and Common Infrastructure (together, the Infrastructure Facility) (amended to May 30, 2025) and for substantial completion of Infrastructure Facility (amended to November 30, 2029).

The SFMTA and PNC have mutually agreed that a second amendment to the PDA (Second Amendment) is necessary to extend the term of the PDA to July 31, 2025, allow the time necessary to seek potential federal funding for the Infrastructure Facility and increase the scope of work to provide for the execution of the Project Agreements and related Infrastructure Facility financing documents in spring 2025. Concurrent with the increase in time is also a request to increase the maximum Termination Payment by \$5,556,566, for a total maximum amount of \$15,546,566, to account for the increased scope of work and the extension in the PDA term. This includes (1) staff costs associated with extending the PDA term; (2) costs for SFMTA changes to the Project (e.g., maximizing joint development flexibility, maximizing flexibility for bus fleet type and size including increasing the number of buses, and seeking potential federal funding); (3) completing site due diligence and advancing third party utility planning and coordination; and (4) pursuing the Project site permit and paying the related application fee by November 30, 2024. The amount of the Termination Payment is currently available in the project budget and would only become due to PNC if the PDA terminates for any reason other than PNC's default or the execution of the Project Agreements.

The PDA will terminate as of October 18, 2024, unless extended by the Second Amendment. If executed, the Second Amendment will be retroactively effective as of October 17, 2024.

Authority for Second Amendment

The SFMTA respectfully requests that the San Francisco Board of Supervisors approve the resolution retroactively approving the Second Amendment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeffrey P. Tumlin'.

Jeffrey P. Tumlin
Director of Transportation

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 241001-114

WHEREAS, The Potrero Yard Modernization Project (Project) includes the development and construction of a modern bus storage and maintenance component (Bus Yard Component) and, if feasible, a multi-family housing and commercial component (Housing Component) and the common infrastructure (Common Infrastructure) that would be shared by the Bus Yard Component and Housing Component; and,

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) will deliver the Bus Yard Component and Common Infrastructure (together, Infrastructure Facility) under its Building Progress Program and, if feasible, pursue the Housing Component consistent with the citywide Public Land for Housing initiative, which encourages joint development opportunities for housing on public sites; and,

WHEREAS, Based on the Project's public and private features, staff have determined it is appropriate and in the City's best interest to deliver the Project utilizing a joint development procurement method; and,

WHEREAS, The joint development solution provides for a single point-of-responsibility through substantial completion for managing project complexity and contractors (e.g., design-build contractors, maintenance contractors for private housing development), financing, and successfully delivering the Project; and,

WHEREAS, The SFMTA and San Francisco Public Works (SFPW) partnered to procure a developer to design, build, and finance the Infrastructure Facility and Housing Component, operate the Housing Component, and maintain certain Facility infrastructure elements; and,

WHEREAS, On April 7, 2020, the SFMTA Board of Directors approved Resolution No. 200407-035, authorizing the SFMTA to use a joint development procurement method to deliver the Project and seek approval from the Board of Supervisors (BOS) for that method; and,

WHEREAS, On March 16, 2021, the BOS adopted Ordinance 38-21 to approve a joint development delivery method and a best-value selection of the developer for the Project and exempted various Project agreements from certain San Francisco Administrative Code requirements that are inconsistent with the joint development delivery method, with the ordinance being signed by the Mayor and effective on April 25, 2021; and,

WHEREAS, A Request for Proposals to enter into a predevelopment agreement (PDA) for the Project (RFP) was released to the three short-listed teams on April 9, 2021, with proposals due December 30, 2021, and all three short-listed teams submitting timely proposals; and,

WHEREAS, On November 1, 2022, the SFMTA Board of Directors adopted Resolution No. 221101-105 to authorize the Director of Transportation to execute the PDA with Lead Developer, Potrero Neighborhood Collective, LLC (Lead Developer), which has Plenary Americas US Holdings Inc. (Plenary) as its sole member, with a term not exceeding 568 days,

potential proposal and termination payments not exceeding \$9,990,000 and, if approved by the Board of Supervisors, a continuation payment of \$4,350,000; and,

WHEREAS, On January 11, 2024, final certification of the environmental impact report (Final EIR) for the Project under CEQA was approved by the SF Planning Commission by Motion No. 21482 and a copy of that motion is on file with the Secretary to the SFMTA Board of Directors; and,

WHEREAS, On March 5, 2024, the Board of Supervisors adopted Resolution No. 107-24, approving the continuation payment of \$4,350,000 to the Lead Developer; and,

WHEREAS, On May 29, 2024, under authority delegated to the Director of Transportation, the SFMTA executed the First Amendment to Predevelopment Agreement that extended the PDA term to be no later than October 18, 2024; and,

WHEREAS, SFMTA project staff and Lead Developer mutually agree that additional time and scope are necessary to seek potential federal and other funding and address City changes to the Project terms; and,

WHEREAS, The Second Amendment to Predevelopment Agreement (Second Amendment) would extend the term of the PDA to July 31, 2025, increase the scope of PDA work, and increase the potential termination payment by \$5,556,566 to reflect that extended term and increased scope; and,

WHEREAS, On September 13, 2024, the Planning Department and the SFMTA, under authority delegated by the Planning Department, determined that the Second Amendment is not a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b) because the action would not result in a direct or reasonably foreseeable indirect physical change to the environment beyond the scope analyzed in the Final EIR; and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute the Second Amendment to Predevelopment Agreement with Potrero Neighborhood Collective, LLC for the Potrero Yard Modernization Project, if approved by the Board of Supervisors, to increase the potential combined termination payment by \$5,556,566 for a total combined proposal and termination payment amount that will not exceed \$15,546,566, increase the scope of work, and extend the term to no later than July 31, 2025, and authorizes the Director of Transportation to seek approval of the Second Amendment from the Board of Supervisors, which the Board of Supervisors would retroactively approve to make the Second Amendment effective as of October 17, 2024; and, be it further

RESOLVED, That the Director of Transportation is authorized to enter into any amendments or other modifications to the PDA that the Director of Transportation determines are in the best interests of the SFMTA and that do not materially increase the obligations or liabilities of the SFMTA or materially decrease the benefits to the SFMTA and to take all actions

reasonably necessary or prudent to perform the SFMTA's obligations under the PDA, as amended by the Second Amendment.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 1, 2024.

A handwritten signature in black ink, appearing to read "Clara", written over a horizontal line.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency



Potrero Yard Modernization Project Predevelopment Agreement Modification #2

The San Francisco Municipal Transportation Agency (SFMTA) proposes to modify the Predevelopment Agreement (PDA) with Potrero Neighborhood Collective, LLC, an affiliate of Plenary Americas US Holdings Inc., for the Potrero Yard Modernization Project, to extend the term agreement through May 2025 and increase the termination payment based on the extended PDA term.

The California Environmental Quality Act (CEQA) Environmental Impact Report (EIR) for the Potrero Yard Modernization Project was certified by the San Francisco Planning Commission on January 11, 2024 (Planning Case No. 2019-021884ENV). Modification #2 to the PDA does not include additional scope beyond what was analyzed in the certified EIR.

Not a "project" under CEQA pursuant to CEQA Guidelines Sections 15060(c) and 15378(b) because the action would not result in a direct or a reasonably foreseeable indirect physical change to the environment.

September 13, 2024

Elizabeth Nagle, Environmental Review Team
San Francisco Municipal Transportation Agency

September 13, 2024

Jennifer McKellar
San Francisco Planning Department

Date



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102
 Phone: 415.252.3100 . Fax: 415.252.3112
ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 240937

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4
 (S.F. Campaign and Governmental Conduct Code § 1.126(f)4)
 A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION	
TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD	
OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT	
NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT	
NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Chris Lazaro	415-549-6572
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MTA Municipal Transportation Agency	chris.lazaro@sfmta.com

5. CONTRACTOR	
NAME OF CONTRACTOR Potrero Neighborhood Collective LLC	TELEPHONE NUMBER 347-514-3117
STREET ADDRESS (including City, State and Zip Code) 555 W Fifth Street, Ste 3150 Los Angeles, CA 90013	EMAIL

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 240937
DESCRIPTION OF AMOUNT OF CONTRACT \$15,546,566		
NATURE OF THE CONTRACT (Please describe) Authorize the Director of Transportation to execute the Second Amendment to Predevelopment Agreement with Potrero Neighborhood Collective, LLC, for the Potrero Yard Modernization Project, if approved by the Board of Supervisors, to increase the potential termination payment by \$5,556,566 for a total combined proposal and termination payment that will not exceed \$15,546,566, increase the scope of work, and extend the term to no later than July 31, 2025		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Plenary Americas USA Ltd		Shareholder
2	Mission Econ Devt Agency		Shareholder
3	Young Community Developers		Shareholder
4	Tabernacle Comm Devt Corp		Shareholder
5	Arcadis IBI Group		Shareholder
6	Y.A. Studio Architect		Shareholder
7	Plant Construction Co LP		Shareholder
8	The Allen Group, LLC		Shareholder
9	D&A Communications		Shareholder
10	Marks	Stuart	Other Principal Officer
11	Budden	Brian	CEO
12	Kirkwood	Nigel	CFO
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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Check this box if you need to include additional names. Please submit a separate form with complete information. Select “Supplemental” for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<p>SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK</p> <p>BOS Clerk of the Board</p>	<p>DATE SIGNED</p>
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From: [Trejo, Sara \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Gee, Natalie \(BOS\)](#); [Martinsen, Janet \(MTA\)](#); [Ramos, Joel \(MTA\)](#); [Lazaro, Chris \(MTA\)](#); [von Krogh, Bonnie Jean \(MTA\)](#); [Wietgreffe, Wade \(MTA\)](#)
Subject: Mayor -- Resolution -- Potrero Bus Yard Predevelopment Agreement
Date: Tuesday, September 24, 2024 3:03:56 PM
Attachments: [BOS Resolution PDA Second Amendment - Final 9.24.24.docx](#)
[CEQA determination 2024 0913 Potrero Yard PDA MOD 2.pdf](#)
[First Amendment to PDA - Executed.pdf](#)
[Second Amendment to Predevelopment Agreement - Final.docx](#)
[Second Amendment to Predevelopment Agreement - Final.pdf](#)
[SFMTA Resolution 10012024 - Unsigned Final.docx](#)
[SFEC Form 126f4BOS---Notification of Contract.pdf](#)

Hello Clerks,

Resolution retroactively approving a Second Amendment to Predevelopment Agreement between Potrero Neighborhood Collective LLC and the City and County of San Francisco, acting by and through the San Francisco Municipal Transportation Agency, dated for reference purposes as of October 1, 2024, and retroactively effective as of October 17, 2024, to increase the potential termination payment by \$5,556,566 for a total potential termination payment that will not exceed \$15,546,566; and making environmental findings under the California Environmental Quality Act.

Please note, Supervisor Walton is a cosponsor of this item.

Best regards,

Sara Trejo

Legislative Aide

Office of the Mayor

City and County of San Francisco